## UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

UNITED STATES OF AMERICA	)	
	)	
V.	)	No. 3:11-cr-00132
	)	Chief Judge Haynes/Judge Knowles
HAWO OSMAN AHMED, et al.	Ì	

## **DEFENDANT HAMDI MOHAMUD'S MOTION TO DISMISS**

Defendant Hamdi Mohamud, through undersigned counsel, hereby moves the Court under Fed. R. Crim. P. 12(b)(2) and 47 to dismiss the Indictment (D.E. 5) for lack of subject matter jurisdiction under the Juvenile Delinquency Act, 18 U.S.C. § 5031 et seq.

The government has charged Defendant Mohamud with witness tampering, conspiracy, and obstruction of the enforcement of 18 U.S.C § 1591. However, the government cannot meet its burden of showing that Defendant Mohamud was 18 years of age or older on the date of the alleged offense (June 16, 2011). The government has neither sought nor been granted a transfer under 18 U.S.C. § 5032, and thus this Court lacks jurisdiction over Defendant Mohamud, and the Indictment should be dismissed.

The grounds for this Motion are more fully set forth in the accompanying Memorandum of Law, which refers to the Exhibits attached hereto. Defendant reasonably believes that the admissibility of these Exhibits will be stipulated (the government itself having produced three out of the four), so Defendant is not requesting an evidentiary hearing (subject to the possibility that the government's response might call for such a hearing).

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